



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 21, 1996

Ms. Regina Grimes
Assistant General Counsel
Legal Affairs Division
Texas Department of Criminal Justice
8610 Shoal Creek
Austin, Texas 78758

OR96-1893

Dear Ms. Grimes:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101310.

The Texas Department of criminal Justice (the "department") received a request for the annual leave requests for six individuals from January 1, 1996 through July 20, 1996. You claim that the requested records are excepted from required public disclosure by sections 552.101 and 552.103 of the Government Code.

Pursuant to section 552.301(b), a governmental body is required to submit to this office (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, and (3) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. You did not, however, submit to this office copies or representative samples of the specific information that was requested.

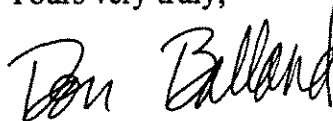
Pursuant to section 552.303(c) of the Government Code, this office notified you by facsimile dated September 18, 1996, that you had failed to submit the information required by section 552.301(b). We requested that you provide this information to our office within seven days from the date of receiving the notice. The notice further stated that under section 552.303(e) failure to comply would result in the legal presumption that the information at issue was presumed public.

You did not provide our office with the information that was requested. Therefore, as provided by section 552.303(e), the information that is the subject of this request for information is presumed to be public information. Information that is presumed public must be released unless a governmental body demonstrates a compelling interest to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982); *see* Open Records Decision No. 473 (1987) (section 552.103 generally does not provide compelling reason to overcome presumption of openness).

In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, the requested information is presumed public. Open Records Decision No. 195 (1978). We note, however, that some kinds of medical information or information indicating disabilities or specific illnesses is confidential and must not be released. *See* Open Records Decision Nos. 641 (1996) (information collected under Americans with Disabilities Act is confidential), 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); *see also* Gov't Code § 552.352 (distribution of confidential information is a criminal offense).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 101310

cc: Mr. Michael D. De Luna
800-B Bouldin Ave.
Austin, Texas 78704